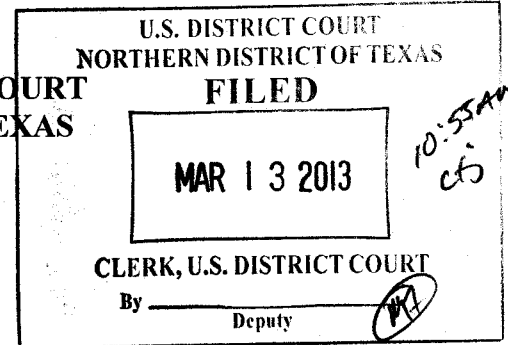


 **ORIGINAL**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FT. WORTH DIVISION**



**ANDREW J. GONZALEZ,**

**Plaintiff,**

**v.**

**CONTINENTAL SERVICE GROUP,  
INC. DBA CONSERVE,**

**Defendant.**

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**CIVIL ACTION NO. 4:12-cv-553-A**

**MOTION FOR ENLARGEMENT OF TIME TO  
FILE MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF THIS COURT:

Defendant, Continental Service Group, Inc. d/b/a Conserve, files this Motion for Enlargement of Time to file Motion for Summary Judgment, and in support thereof would show:

1. On December 6, 2012, the parties to appeared and conferred regarding settlement. The Court issued an order requiring Defendant to produce documents evidencing the account at issue by December 17, 2012; if a settlement was reached, ordering Plaintiff to file a Motion to Dismiss by December 17, 2012; and if no settlement was reached, ordering Defendant to file a Motion for Summary Judgment by January 7, 2013. (Doc. No. 32)
2. Defendant was unable to get the pertinent records from the lender so Defendant filed a Motion for Enlargement of Time to File a Motion for Summary Judgment. (Doc. No. 34)
3. The Court issued an order on January 10, 2013 granting Defendant's Motion for Enlargement of Time to File a Motion for Summary Judgment. (Doc. No. 35)
4. On February 1, 2013 Defendant, through Republic Services, Inc., a third party vendor, filed Notice of Intention to Take Deposition by Written Questions on NCO Financial Service, Inc. and requested that a subpoena duces tecum be issued for the

production of all documents pertaining to student loans provided by National Collegiate Trust to the Plaintiff. (see Exhibit A)

5. On February 17, 2013 NCO Financial Service, Inc. refused to produce the documents pertaining to student loans provided by National Collegiate Trust to Plaintiff without an authorization signed by Plaintiff. (see Exhibit B)
6. On February 22, 2013 Defendant requested Plaintiff to sign the authorization required by NCO Financial Service, Inc. to produce the documents pertaining to student loans provided by National Collegiate Trust to Plaintiff. (see Exhibit C)
7. On February 26, 2013 Plaintiff refused to sign the authorization required by NCO Financial Service, Inc. to produce the documents pertaining to student loans provided by National Collegiate Trust to Plaintiff. (see Exhibit D)
8. Fed. R. Civ. P. 45 sets forth the appropriate procedure to compel a non-party to produce documents, which is to serve them a subpoena in accordance with Rule 45. "It is only after the individuals or entities object on grounds of privilege or otherwise fail to produce the documents pursuant to subpoena that the Court will consider a motion requesting (1) the Court compel the entity to produce the documents pursuant to Rule 45; or (2) compel the party to execute appropriate releases pursuant to the Court's general powers to enforce its own order." *Id.*, *P.S. ex rel. Nelson v. The Farm, Inc.* 2008 WL 185801 (D.Kan.)
9. On March 7, 2013 Defendant Filed a Motion to Compel Plaintiff to Sign an Authorization to Release Information to Plaintiff pertaining to student loans provided by National Collegiate Trust. (Doc. No. 36)
10. This Court should grant Defendant's motion to compel for the following reasons:
  - a. The Court has specifically ordered Defendant to produce documents evidencing the account at issue. These documents are in the possession and control of a non-party. The non-party, NCO Financial Service, Inc., will not produce the pertinent records without an authorization signed by Plaintiff. Plaintiff's refusal to sign the

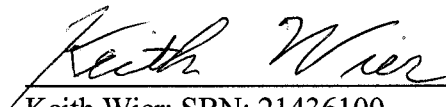
authorization has created a situation in which Defendant cannot comply with the Court's Order.

b. The non-party, NCO Financial Service, Inc., has failed to produce the pertinent records and the Court should compel Plaintiff to execute appropriate releases pursuant to the Court's general powers to enforce its own order.

11. Defendant requests an enlargement of time so that the court can rule on the pending Motion to Compel Plaintiff to Sign an Authorization to Release Information, receive the pertinent documents from the non-party, and a 60-day enlargement of time to file its Motion for Summary Judgment in this matter.

WHEREFORE, Defendant respectfully requests that the Court grant the enlargement of time as requested, and for such other and further relief, both at law and in equity, to which this Defendant may be justly and legally entitled.

**BUSH & RAMIREZ, P.L.L.C.**



Keith Wier; SBN: 21436100  
Fed. ID No. 7930  
5615 Kirby Dr., Suite 900  
Houston, Texas 77005  
(713) 626-1555 Telephone  
(713) 622-8077 Telecopier

Ed Walton; SBN: 20828550  
101 Metro Dr.  
Terrell, Texas 75160  
(972) 499-4833  
(972) 563-1598 (facsimile)

**ATTORNEY FOR DEFENDANT,  
CONTINENTAL SERVICE GROUP, INC.**

**CERTIFICATE OF CONFERENCE**


I certify that on March 11, 2013, I attempted to confer with Plaintiff Pro Se, Andrew Gonzalez; however, I have been unsuccessful. As such, I cannot represent to the Court whether he opposes or does not oppose this motion.

  
\_\_\_\_\_  
Keith Wier

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing has been forwarded to Plaintiff by facsimile and/or by certified mail, return receipt requested on the 11<sup>th</sup> day of March, 2013, as follows:

Andrew J. Gonzalez  
Plaintiff Pro Se  
3451 River Park Drive, Apt. #1211  
Ft. Worth, TX 76116

  
\_\_\_\_\_  
Keith Wier

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**ANDREW J. GONZALEZ**

V.

CIVIL ACTION NO. 4:12-CV-553-A

**CONTINENTAL SERVICE GROUP, INC. D/B/A  
CONSERVE**

**NOTICE OF INTENTION  
TO TAKE DEPOSITION BY WRITTEN QUESTIONS**

To Plaintiff by and through their attorney(s) of record: **Andrew J. Gonzalez (Andrew J. Gonzalez, Pro Se)**  
To other party/parties by and through their attorney(s) of record:

You will please take notice that fourteen (14) days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of Custodian of Records for:

**NCO FINANCIAL SYSTEMS, INC. (Any & All Records)**  
**5626 FRANTZ ROAD**  
**DUBLIN, OH 43017**

before a Notary Public for **Republic Services, Inc.**  
**4202 Sherwood**  
**Houston, TX 77092**  
**713-957-0094 Fax 713-957-0540**

or its designated agent, which deposition with attached questions may be used in evidence upon the trial of the above-styled and numbered cause pending in the above named court. Notice is further given that request is hereby made as authorized under Rule 45, Federal Rules of Civil Procedure, to the officer taking this deposition to issue a subpoena duces tecum and cause it to be served on the witness to produce any and all records as described on the attached questions and/or Exhibit(s) and any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to:

**ANDREW J. GONZALEZ**

and to turn all such records over to the officer authorized to take this deposition so that photographic reproductions of the same may be made and attached to said deposition.

**Keith Wier**  
**Bush & Ramirez, L.L.C.**  
**5615 Kirby Drive, Suite 900**  
**Houston, TX 77005**  
**713-626-1555 Fax 713-622-8077**  
**Attorney for Defendant**  
**SBA # 21436100**

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all Counsel of Record by hand delivery, FAX, and/or certified mail, return receipt requested, on this day.

Dated: \_\_\_\_\_

2-1-13

by \_\_\_\_\_

Andrew Gonzalez

**EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**ANDREW J. GONZALEZ**

**V.**

**CIVIL ACTION NO. 4:12-CV-553-A**

**CONTINENTAL SERVICE GROUP, INC. D/B/A  
CONSERVE**

**DIRECT QUESTIONS TO BE PROPOUNDED TO THE WITNESS**

Custodian of Records for: **NCO FINANCIAL SYSTEMS, INC.**

Records Pertaining To: **ANDREW J. GONZALEZ**

Type of Records: **Any and all records pertaining to the student loans provided to ANDREW J. GONZALEZ, SSN: 463-93-7054, Account #: 463-93-7054/001-001000 by National Collegiate Trust.**

1. State your full name, address and occupation.

Answer: \_\_\_\_\_

2. Are you able to identify these records as the originals or true and correct copies of the originals?

Answer: \_\_\_\_\_

3. Were these records made and kept in the regular course of business?

Answer: \_\_\_\_\_

4. In the regular course of business, did the person who signed or otherwise prepared these records either have personal knowledge of the entries on these records or obtain the information from sources who have such personal knowledge to make such records?

Answer: \_\_\_\_\_

5. Are these records under your care, supervision, directions, custody or control?

Answer: \_\_\_\_\_

6. Are these records made at a time closely related to or simultaneous with the occurrence recorded on these records?

Answer: \_\_\_\_\_

**EXHIBIT A**

7. Were these records kept as described in the previous questions?

Answer: \_\_\_\_\_

8. Please gather any and all of such records together and deliver same to the officer taking your deposition for inspection and photocopying. (This will be at no expense to you, and the officer will return the original records to you after they have been both inspected and copied.) Have you done as requested? If not, why not?

Answer: \_\_\_\_\_

\_\_\_\_\_  
WITNESS (Custodian of Records)

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_  
known to me to be the person whose name is subscribed to the foregoing instrument in the capacity therein stated, who being first  
duly sworn, stated upon his/her oath that the answers to the foregoing questions are true and correct. I further certify that the  
records attached hereto are exact duplicates of the original records.

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Order No. 65017.001

**Price, Hollis**

---

**From:** Perez, Edina  
**Sent:** Wednesday, February 27, 2013 3:40 PM  
**To:** Price, Hollis  
**Subject:** FW: GONZALEZ V. CONSERVE  
**Attachments:** Student Loan Auth.pdf

---

**From:** Amber Epperson [<mailto:aepperson@republic-services.com>]  
**Sent:** Friday, February 22, 2013 11:32 AM  
**To:** Perez, Edina  
**Subject:** RE: GONZALEZ V. CONSERVE

Here you go.

---

**From:** Perez, Edina [<mailto:eperez@bushramirez.com>]  
**Sent:** Friday, February 22, 2013 11:12 AM  
**To:** 'Amber Epperson'  
**Subject:** RE: GONZALEZ V. CONSERVE

Do you have a form for the authorization? We can try to get it signed but it's doubtful at this point which is why we went with trying to subpoena.

---

**From:** Amber Epperson [<mailto:aepperson@republic-services.com>]  
**Sent:** Friday, February 22, 2013 10:59 AM  
**To:** Perez, Edina  
**Subject:** RE: GONZALEZ V. CONSERVE

We issued a subpoena for the records, but they said they still have to have an authorization. ☹

---

**From:** Perez, Edina [<mailto:eperez@bushramirez.com>]  
**Sent:** Friday, February 22, 2013 10:20 AM  
**To:** 'Amber Epperson'  
**Subject:** RE: GONZALEZ V. CONSERVE

Can the records be subpoenaed without an authorization?

---

**From:** Amber Epperson [<mailto:aepperson@republic-services.com>]  
**Sent:** Sunday, February 17, 2013 1:48 PM  
**To:** Perez, Edina  
**Subject:** GONZALEZ V. CONSERVE

Good afternoon Dina,

Please see the below status:

RE: Cause No. 4:12-CV-553-A Client Matter #:  
GONZALEZ V. CONSERVE  
Pertaining To: ANDREW J. GONZALEZ  
Order No.: 65017 (1 part(s)) Acct Rep: Amber Epperson



Part No.: 1

NCO FINANCIAL SYSTEMS, INC. (Any & All Records)

5626 FRANTZ ROAD

DUBLIN, OH 43017

Status: Hold

Comment: This facility has requested a signed authorization prior to the release of records.

---

Thank you,

Amber Epperson

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Case Manager

Republic Services, Inc.

4202 Sherwood Lane, Houston, TX 77092

Phone: 713-957-0094 | Fax: 713-957-0540

**Perez, Edina**

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**From:** Perez, Edina  
**Sent:** Friday, February 22, 2013 4:02 PM  
**To:** 'gonandrew@yahoo.com'  
**Cc:** Wier, Keith  
**Subject:** Gonzalez v. Conserve  
**Attachments:** Student Loan Auth.pdf

Good afternoon, Mr. Gonzalez.

We are attempting to get information regarding your student loan from NCO Financial. NCO has requested a signed authorization from you in order to do so. Please let me know if you will sign the attached authorization to release this information. Thank you.

*Dina M. Perez  
Paralegal to Keith Wier,  
James J. Thorpe, and Hollis Price  
Bush & Ramirez, P.L.L.C.  
5615 Kirby Dr., Suite 900  
Houston, TX 77005  
Telephone: (713) 626-1555  
Facsimile: (713) 622-8077  
[eperez@bushramirez.com](mailto:eperez@bushramirez.com)*

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**AUTHORIZATION TO RELEASE INFORMATION**

Name of Borrower/Cosigner: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ SSN or Account # \_\_\_\_\_

**I authorize the release of information requested below to:**

Name: \_\_\_\_\_

**Please forward via regular US Postal Service to:**

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

**Please forward via email to:**

Email address: \_\_\_\_\_

**I am requesting the following information be released to the entity listed above.**

Description of information to be released:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby release you, your organization, or others from liability or damages which may result from furnishing the information requested. I further authorize that a photocopy or imaged copy of this form shall be for all intents and purposes, as valid as the original. I authorize you to retain a copy of this form for your files.

This release is valid for any information supplied within one (1) year of the date of my signature. If no date is supplied the release is valid for one (1) year from the date of receipt.

Signature of Borrower/Cosigner: \_\_\_\_\_

Date: \_\_\_\_\_

**Price, Hollis**

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**From:** Wier, Keith  
**Sent:** Tuesday, February 26, 2013 1:22 PM  
**To:** Price, Hollis  
**Cc:** Perez, Edina  
**Subject:** FW: Gonzalez v. Conserve

Hollis, please prepare Motion to Compel his signature on authorization. Would like to get something on file by Friday if we can. Thanks.

---

**From:** Andrew Gonzalez [<mailto:gonandrew@yahoo.com>]  
**Sent:** Tuesday, February 26, 2013 11:46 AM  
**To:** Perez, Edina  
**Cc:** Wier, Keith  
**Subject:** Re: Gonzalez v. Conserve

Good Afternoon,

I apologize for not getting back to you sooner.

I cannot agree to the terms on the authorization form provided, therefore I cannot not sign such release at this time.

Thank You,

Andrew Gonzalez

**From:** "Perez, Edina" <[eperez@bushramirez.com](mailto:eperez@bushramirez.com)>  
**To:** "gonandrew@yahoo.com" <[gonandrew@yahoo.com](mailto:gonandrew@yahoo.com)>  
**Cc:** "Wier, Keith" <[kwier@bushramirez.com](mailto:kwier@bushramirez.com)>  
**Sent:** Friday, February 22, 2013 4:01 PM  
**Subject:** Gonzalez v. Conserve

Good afternoon, Mr. Gonzalez.

We are attempting to get information regarding your student loan from NCO Financial. NCO has requested a signed authorization from you in order to do so. Please let me know if you will sign the attached authorization to release this information. Thank you.

*Dina M. Perez*  
*Paralegal to Keith Wier,*  
*James J. Thorpe, and Hollis Price*  
*Bush & Ramirez, P.L.L.C.*  
*5615 Kirby Dr., Suite 900*  
*Houston, TX 77005*  
*Telephone: (713) 626-1555*  
*Facsimile: (713) 622-8077*  
*[eperez@bushramirez.com](mailto:eperez@bushramirez.com)*

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FT. WORTH DIVISION**

**ANDREW J. GONZALEZ,**

**Plaintiff,**

**v.**

**CONTINENTAL SERVICE GROUP,  
INC. DBA CONSERVE,**

**Defendant.**

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**CIVIL ACTION NO. 4:12-cv-553-A**

**ORDER GRANTING MOTION FOR ENLARGEMENT OF TIME TO  
FILE MOTION FOR SUMMARY JUDGMENT**

On this day came on for consideration the Defendant's Motion for Enlargement of Time to File Motion for Summary Judgment. After careful consideration, the Court is of the opinion that such motion is well-taken, and should be in all things GRANTED.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Defendant's Motion for Enlargement of Time is in all things **GRANTED**, and the new deadline for Defendant to file its Motion for Summary Judgment is \_\_\_\_\_.

SIGNED \_\_\_\_\_, 2013.

\_\_\_\_\_  
United States District Judge